

1 LYNN GAVIN
 2 1230 Market Street, #4
 3 San Francisco, CA 94102
 4 (415) 286-2528

5 Plaintiff in propria persona

FILED

NOV 15 2012

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

6 UNITED STATES DISTRICT COURT
 7 NORTHERN DISTRICT OF CALIFORNIA

8
 9 LYNN GAVIN AND
 10 DOES 1 – 10, inclusive,

11 Plaintiffs,

12 v.

13 BARTHOLOME MURPHY #127732)

14 MICHAEL J. ANTONINI; RICH)

15 HILLIS; GWYNETH BORDEN;)

16 RODNEY FONG; DAVID CHIU;)

17 ERIC MAR; CARMEN CHU;)

18 MALIA COHEN; SCOTT WIENER;)

19 SEAN ELSBERND; MARK)

20 FARRELL; CHARLES SULLIVAN;)

21 CHARLES SULLIVAN; CHERYL)

22 SUSANA ADAMS;)

23 MICHAEL YARNE; JENNIFER)

24 MATZ; JUDSON TRUE;)

25 STEVE KAVA; JERRY THREET;)

26 ROSS MIRKARIMI; JANE KIM;)

27 DENNIS JOSE HERRERA;)

28 GEORGE GASCÓN; CHARLES)

SULLIVAN; YVONNE MERÉ;)

WILLIE BROWN JR.; GAVIN)

NEWSOM; KAMLA HARRIS)

ANGELA CAVILLIO; MICKI)

CALLAHAN; MADELEINE)

LICOVOLI; ED HARRINGTON;)

BEVAN DUFFY; OLSEN LEE;)

BRIAN SMITH; LULU HWANG;)

JOHN RAHAIM; LINDA AVERY;)

RICHARD COOPER; KEITH)

Case No.: 12 5864

COMPLAINT OF PLAINTIFF LYNN
 GAVIN AND DOES 1 – 10 FOR:

1. DECLARATORY RELIEF
2. INJUNCTIVE RELIEF;
3. FRAUD;
4. NEGLIGENCE;
5. BREACH OF CONTRACT;
6. INTENTIONAL TORT;
7. PREMISES LIABILITY;
8. PRODUCTS LIABILITY;
9. BREACH OF IMPLIED COVENANT OF
FAIR DEALING;
10. PROMISSORY ESTOPPEL;
11. MISTAKE;
12. DURESS;
14. RETALIATORY EVICTION;;
15. DEPRIVATION OF BOARD; CIVIL RIGHTS
16. DISCRIMINATION UNDER FEDERAL
GRANTS AND PROGRAM;
17. DEPRIVATION OF HOUSING
ACCOMODATIONS [CAL. CIV. CODE §
54.1];
18. ABUSE OF PROCESS;

1 DEMARTINI; ELIZABETH)
 2 WATTY; TONY DESOTO;)
 3 RON VINSON; JON WALTON;)
 4 JACK CHAN;)
 5 MATT LASKY; PETER ALBERT;)
 6 JESSICA MANZI; JOSÉ LUIS)
 7 MOSCOVICH; CHESTER FUNG;)
 8 MAYOR'S OFFICE OF HOUSING;)
 9 OFFICE OF HOMELESS CZAR;)
 10 CLERK OF THE BOARD;)
 11 OFFICE OF THE MAYOR)
 12 OF SAN SAN FRANCISCO;)
 13 OFFICE OF THE CITY)
 14 ATTORNEY OF SAN)
 15 FRANCISCO; OFFICE OF)
 16 THE DISTRICT ATTORNEY OF)
 17 SAN FRANCISCO; BOARD)
 18 OF SUPERVISORS OF SAN)
 19 FRANCISCO; OFFICE OF)
 20 WORKFORCE ECONOMIC)
 21 DEVELOPMENT OF SAN)
 22 FRANCISCO; SAN FRANCISCO)
 23 PLANNING DEPARTMENT; SAN)
 24 FRANCISCO PUC; SF PLANNING)
 25 COMMISSION; SF CITY AND)
 26 COUNTY DEPT OF TECHNOLOGY)
 27 SAN FRANCISCO COUNTY)
 28 TRANSPORTATION AUTHORITY)
 RONALD EVANS QUIDACHAY;)
 SAN HOUSING AUTHORITY)
 FRANCISCO HOUSING)
 HENRY ALVAREZ III;)
 NICOLE MC CRAY-)
 DICKERSON; BARBARA SMITH;)
 AMOS BROWN; LINDA)
 MARTIN; LEI ROCHELLE)
 JOHNSON; MIRIAN SAEZ;)
 MATTHEW SCHWARTZ;)
 VERONICA HUNNICUTT;)
 AHSYA SAFAI; DOROTHY)
 SMITH; MICHAH ALLEN;)
 DONALD SMITH;)
 GREG FORTNER; TONY)
 UCCIFERI; DIANA D. FARSAI;)
 CHARLES HAUPTMAN; MELINA)
 WHITEHEAD; MARTHA RUIZ;)

19. CONVERSION;
 20. SALE OF STOLEN GOODS;
 21. DEFAMATION OF CHARACTER;
 22. SLANDER;
 23. LIBEL;
 24. INTENTIONAL INFLICTION OF
 EMOTIONAL DISTRESS;
 25. UNFAIR COMPETITION;
 26. INTENTIONAL INTERFERENCE WITH
 PROSPECTIVE BUSINESS ADVANTAGE;
 27. CIVIL CONSPIRACY [CIVIL R.I.C.O.];
 28. DEPRIVATION OF RIGHTS [42 U.S.C. §
 1983; U.S. Const. and Amendments 1, 4, 5, 6, 8
 14];
 29. QUASI-CONTRACT;

 30. FALSE CLAIMS [QUI TAM];
 31. NUISANCE;
 32. UNLAWFUL DETAINER;
 33. TRESPASS;
 34. FORCIBLE ENTRY;
 35. WRONGFUL FORFEITURE;
 36. WRONGFUL EJECTMENT;
 37. WRONGFUL LIBRARI FACIAS;
 38. WRONGFUL WILLFUL BLINDNESS TO
 LAW [e.g., ALL WRITS ACT [28 U.S.C. §
 1651]];
 39. UNCONSCIONABILITY;
 40. ABATEMENT;
 41. ACCOUNTING; AND
 42. INTERPLEADER.

1 ELAINE TARAPE; BRYAN)
 2 SMITH; OPHELIA BASGAL;)
 3 GERARD WINDT; HUD WEST)
 4 COAST; HELEN R. KANOVSKY;)
 5 SHAUN DONOVAN; HUD DC;)
 6 PARKMERCED)
 7 INVESTORS, LLC; STELLAR)
 8 MANAGEMENT; GREYSTAR)
 9 MANAGEMENT SERVICES, L.P.;)
 10 BILL MADDUX;)
 11 DEREK RAMSEY;)
 12 DANIEL MUDD;)
 13 SETH MALLIN; DONNA STERN;)
 14 BERT POLACCI; PJ JOHNSTON;)
 15 DIDI MACDONALD;)
 16 DANIEL R. STERN 159892;)
 17 DAVID P. WASSERMAN #171923;)
 18 JULIE ANDERSON; BRYCE)
 19 BODDIE; STEPHEN TINDLE;)
 20 RAMON GODINEZ-ESTRADA;)
 21 STONESTOWN MERCHANT)
 22 ASSOCIATION; ROBERT)
 23 CORRIGIAN; CHARLES REED;)
 24 CSU BOARD OF TRUSTEES;)
 25 NATHANAEL DAVID)
 26 PLAYER #264920;)
 27 AND DOES 1 – 100, inclusive;)
 28 Defendants.)

COMES NOW plaintiff Lynn Hambolu and does 1 – 10 (“Plaintiff Hambolu”) and
 alleges as follows:

INTRODUCTION

1. Plaintiff Gavin, a single parent with children and qui tam plaintiff, hereby
 incorporates by reference into this Verified Complaint (“Verified Complaint”) Plaintiff Gavin’s
 Complaint (“Complaint”) from Lynn Gavin v. Parkmerced Investors Properties LLC, United
 States District Court Northern District of California (“USDC”).

1 2. The allegations in this Verified Complaint stated on information and belief are
2 likely to have evidentiary support after a reasonable opportunity for further investigation or
3 discovery. Id.

4
5 3. Plaintiff Gavin never would have moved into Plaintiff Gavin's residence at
6 Parikmerced in San Francisco, California ("Residence") if Plaintiff Gavin had known that
7 defendants in the instant case ("Defendants") planned to demolish the Residence.

8 4. Plaintiff Gavin is informed and believes and thereon alleges that, at all times
9 herein mentioned, Does 1 – 100 were the agents of Defendants and in doing the things
10 hereinafter alleged, were acting in the scope of such agency and with the permission and consent
11 of Defendants. Id.

12
13 5. On March 1, 2010, Plaintiff Gavin signed as the tenant a lease ("Lease") for
14 Plaintiff Gavin's residence at 22 Grijalva Drive, San Francisco, CA 94132 ("Home") with
15 Defendants Properties LLC ("Defendants") as the landlord. See Exhibit B, Lease, attached
16 hereto.

17
18 6. This lawsuit should be assigned to the United States District Court because the
19 lawsuit involves issues of federal law.

20 7. Plaintiff Gavin has multiple disabilities.

21 8. Plaintiff Gavin relies on respiratory medical equipment to aid in breathing and a
22 walker and wheelchair to aid in easing pain in Plaintiff Hambolu's body.

23
24 9. Defendants are a Delaware Limited Liability Company and have had multiple
25 turnovers with office personnel since March 2010.

26 10. Plaintiff Gavin has experienced violations of federal rights under, among others,
27 the American with Disabilities Act, section 504 by Defendants' intentional refusal to provide
28

11. Defendants denied Plaintiff Gavin's requests for meaningful access to and reasonable accommodations in Plaintiff Gavin's Home including a parking space near Plaintiff Gavin's Home and grab bars in Plaintiff Gavin's Home's bathroom due to Plaintiff Gavin's handicaps. Ibid.

12. Plaintiff Gavin has experienced violations of federal rights under, among others, 42 U.S.C. § 1983 and the Fourteenth Amendment to the Constitution of the United States for Defendants' denial of services, refusals to provide Plaintiff Gavin with meaningful access to and reasonable accommodations in Plaintiff Gavin's Home including grab bars in Plaintiff Gavin's Home's bathroom and a parking space near Plaintiff Gavin's Home due to Plaintiff Hambolu's handicaps ("Defendants' Wrongful Conduct").

13. Defendants' Wrongful Conduct escalated during Plaintiff Gavin's Lease culminating in a wrongful eviction based on different claims of billed utility charges in wrongfully posted three day notices on August 24, 2011 and September 19, 2011 due to Plaintiff Gavin's handicaps that was arbitrary, unreasonable and discriminatory. Id.

14. The events that occurred between July 9, 2012 and July 25, 2012 relating to Defendants' efforts to evict wrongfully Plaintiff Gavin from her Home have adversely impacted and continue to impact adversely Plaintiff Gavin's health including hospitalization on July 25, 2012 and October 28 to 30, 2012.

15. Plaintiff Gavin is in a protected class of persons who live below the federal poverty line.

16. Plaintiff Gavin is a handicapped person due to Plaintiff Gavin's medical conditions.

1 17. Plaintiff Gavin's medical conditions substantially limit her major life activities
2 including performing manual tasks, walking, breathing, sleeping and working.

3 18. Plaintiff Gavin's primary care physician at UCSF Medical Center/UCSF Benioff
4 Children's Hospital Amiesha S. Panchal, M.D. ("Dr. Panchal") described in a July 31, 2012
5 letter ("Letter") Plaintiff Gavin's medical condition as chronic. See Exhibit C, Letter, attached
6 hereto ("Exhibit D").
7

8 19. Plaintiff Gavin has a pet rabbit named Sir Daniel that Dr. Panchal stated in the
9 letter helps Plaintiff Gavin greatly with a chronic medical condition. See Exhibit D.
10

11 20. Dr. Panchal requested in the Letter that Sir Daniel be designated as a service
12 animal. See Exhibit D.

13 21. Plaintiff Gavin is qualified as a handicapped person to receive Section 8 housing
14 assistance federal program funds ("Section 8") and housing services from Defendants free from
15 discrimination from Defendants or from any other source based on Plaintiff Gavin's handicaps or
16 medical conditions.
17

18 22. Defendants receive funds from Section 8.

19 23. Defendants impermissibly discriminated against Plaintiff Gavin on the basis of
20 Plaintiff Gavin's handicaps during the term of the Lease and subsequent to the wrongful eviction
21 of Plaintiff Gavin from her Home.
22

23 24. Defendants have continued after Defendants' wrongful eviction of Plaintiff Gavin
24 from her Home on July 25, 2012 to discriminate impermissibly against Plaintiff Gavin on the
25 basis of Plaintiff Gavin's handicaps to the present and continuing.
26
27
28

1 25. Plaintiff Gavin's medical condition requires Plaintiff Gavin to live in a walkable
2 community without hills to receive health benefits that a walkable community without hills
3 affords Plaintiff Gavin.
4

5 26. Plaintiff Gavin's Home is situated in a walkable community.

6 27. Plaintiff Gavin enjoyed access to public transportation while living in her Home.

7 28. Plaintiff Gavin's health benefitted from living in her Home.

8 29. Plaintiff Gavin's medical condition requires Plaintiff Gavin to use a machine that
9 helps Plaintiff Gavin breathe when Plaintiff Gavin is sleeping.
10

11 30. Plaintiff Gavin's medical condition requires Plaintiff Gavin to use a wheelchair,
12 walker and cane as needed to ease pain.

13 31. Plaintiff Gavin's medical condition compelled Plaintiff Gavin to request from
14 Defendants during the term of the Lease the installation of grab bars in Plaintiff Gavin's
15 bathroom in Plaintiff Gavin's Home that Defendants refused to install ("Grab Bar Request").
16

17 32. Plaintiff Gavin alleges Defendants impermissibly discriminated and continues to
18 discriminate impermissibly against Plaintiff Gavin on the basis of Plaintiff Gavin's handicaps in
19 response to Plaintiff Gavin's Grab Bar Request.

20 33. Plaintiff Gavin's medical condition compelled Plaintiff Gavin to request from
21 Defendants during the term of the Lease the designation of a parking space near Plaintiff Gavin's
22 Home to accommodate Plaintiff Gavin's handicaps that Defendants refused to designate
23 ("Parking Space Request").
24

25 34. Plaintiff Gavin alleges Defendants impermissibly discriminated and continues to
26 discriminate impermissibly against Plaintiff Gavin on the basis of Plaintiff Gavin's handicaps in
27 response to Plaintiff Gavin's Parking Space Request.
28

1 35. Defendants did not disclose to Plaintiff Gavin that Defendants wanted to demolish
2 Plaintiff Gavin's Home for Defendants' own use for Defendants' as yet undisclosed reasons.

3 36. No meters exist around Plaintiff Gavin's Home to measure water use for each
4 residence.
5

6 37. A formula to measure water use for Defendant Gavin's Home exists in Defendant
7 Gavin's Lease that the Lease does not explain very well.

8 38. Plaintiff Gavin's Home was newly renovated.

9 39. Plaintiff Gavin alleges in Plaintiff Gavin's opinion that Defendants wrongfully
10 evicted Plaintiff Gavin from Plaintiff Gavin's Home in retaliation for Plaintiff Gavin asserting
11 her tenant rights.
12

13 40. Defendants refused to assure Plaintiff Gavin meaningful access to and reasonable
14 accommodations in Plaintiff Gavin's Home that Plaintiff Gavin requested from Defendants.
15

16 41. Instead of providing Plaintiff Gavin with meaningful access to and reasonable
17 accommodations in Plaintiff Gavin's Home as Plaintiff Gavin requested, Defendants chose to
18 evict Plaintiff Gavin denying her Section 8 benefits based on Defendants' claim that Plaintiff
19 Gavin owed Defendants some differing amounts of money for unpaid water use ("Wrongful
20 Eviction").
21

22 42. Defendants indicate in Defendants' August 24, 2011 unsigned three day notice to
23 perform covenant or quit that Plaintiff Gavin owes \$1,586.72 in billed utility charges and a lesser
24 amount of billed utility charges in the amount of \$1121.92 in the second signed September 19,
25 2011 three day notice to quit ("Wrongful Three Day Notices").
26

27 43. Plaintiff Gavin alleges Defendants excluded Plaintiff Gavin from receiving
28 reasonable landlord services from Defendants including meaningful access to Plaintiff Gavin's

1 Home, reasonable accommodations in Plaintiff Gavin's Home and reasonable and accurate
2 billing services from Defendants due to Plaintiff Gavin's handicaps.

3 44. Plaintiff Gavin's attorney in the unlawful detainer case Defendants filed against
4 Plaintiff Gavin in San Francisco Superior Court did not file a cross-complaint against
5 Defendants.
6

7 45. Defendants may attempt to lease Plaintiff Gavin's Home to another tenant at an as
8 yet undisclosed amount.

9 46. Defendants took Plaintiff Gavin's Home, belongings, personal items, food,
10 clothing and medical support equipment ("Property") leaving Plaintiff Gavin with the clothes
11 Plaintiff Gavin was wearing, a walking cane and some other effects Plaintiff Gavin happened to
12 be carrying with her at that time.
13

14 47. Defendants' wrongful denial of Plaintiff Gavin's Grab Bar and Parking Space
15 Requests have caused Plaintiff Gavin to endure painful medical and physical difficulties that
16 resulted in and continue to result in cruel and unusual punishment simply for Plaintiff Gavin
17 requesting meaningful access and reasonable accommodations in Plaintiff Gavin's Home.
18

19 48. Defendants' Wrongful Eviction of Plaintiff Gavin, who Plaintiff Gavin believes
20 based on information and belief is the only tenant at the Parkmerced development who requested
21 a jury trial among those Defendants attempted to evict of 197 three day notices Defendants
22 issued in 2011, from Plaintiff Gavin's Home and subsequent wrongful seizure of Plaintiff
23 Gavin's belongings have caused Plaintiff Gavin to endure painful medical and physical
24 difficulties that resulted in and continue to result in cruel and unusual punishment simply for
25 Plaintiff Gavin requesting meaningful access and reasonable accommodations in Plaintiff
26 Gavin's Home.
27
28

1 49. Plaintiff Gavin asserts that Defendants wrongfully initiated eviction against
 2 Plaintiff Gavin and wrongfully evicted Plaintiff Gavin to harass Plaintiff Gavin in retaliation,
 3 among other things, for Plaintiff Gavin requesting meaningful access to and reasonable
 4 accommodations in Plaintiff Gavin's Home according to Plaintiff Gavin's handicaps.
 5

6 50. Plaintiff Gavin asserts that Defendants prematurely filed an unlawful detainer
 7 action against Plaintiff Gavin fraudulently claiming that Plaintiff Gavin owed Defendants utility
 8 fees as stated in the Wrongful Three Day Notices.
 9

10 51. Plaintiff Gavin is legally disabled as Plaintiff Gavin's doctor has diagnosed
 11 Plaintiff Gavin's disabilities and the United States Social Security Administration has
 12 determined that Plaintiff Hambolu is disabled. See Exhibit D.
 13

14 52. Plaintiff Gavin seeks, *inter alia*, declaratory relief, to enjoin Wrongful Eviction,
 15 specific performance of the Lease if the Lease is found valid, to recover from fraud and
 16 negligence, to redress Defendants' infringement upon Plaintiff Gavin's Constitutional rights and
 17 an accounting.
 18

19 53. Defendants fraudulently noticed, *inter alia*, three day notices of Plaintiff Gavin's
 20 Home on or about August 24, 2011 and September 19, 2011 that caused Plaintiff Gavin harm.
 21 See Exhibit A, Exh. 6 thereto; United States Constitution; California Constitution; 18 U.S.C. §§
 22 1341, 1343, 1346, 1961-1968; 42 U.S.C. §§ 1983, 1985; Cal. Civ. Code § 1709.¹
 23

24 54. Defendants take Defendants' victim as Defendants find Defendants' victim.² Id.
 25

26 ¹ Cal. Civ. Code "§ 1709. Deceit; damages Fraudulent deceit. One who willfully deceives
 27 another with intent to induce him to alter his position to his injury or risk, is liable for any
 28 damage which he thereby suffers."

² *Summers v. Tice* (1948) 33 Cal.2d 80, 84 ("Considering the last argument first, we believe it is
 clear that the court sufficiently found on the issue that defendants were jointly liable and that
 thus the negligence of both was the cause of the injury or to that legal effect."); *Bahl v. Bank of
 America* (2001) 89 Cal.App.4th 389, 398-399 ("Judges are faced with opposing responsibilities

JURISDICTION AND VENUE

55. The Court has jurisdiction over this action because, *inter alia*, Plaintiff Gavin's claims arise under the Constitution, laws and treaties of the United States and California. *Ibid*.

56. The issues in dispute arise from Defendants' wrongful conduct against Plaintiff Gavin relating to Plaintiff Gavin's Home that is situated in San Francisco County, California. *Id*. This Court therefore has jurisdiction to enter an order and judgment. *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 57³ (1982).

when continuances for the hearing of summary judgment motions are sought. On the one hand, they are mandated by the Trial Court Delay Reduction Act (Gov. Code § 68600 et seq.) to actively assume and maintain control over the pace of litigation. On the other hand, they must abide by the guiding principle of deciding cases on their merits rather than on procedural deficiencies. (*Thatcher v. Lucky Stores, Inc.* (2000) 79 Cal.App.4th 1081, 1085 [94 Cal.Rptr.2d 575].) Such decisions must be made in an atmosphere of substantial justice. When the two policies collide head-on, the strong public policy favoring disposition on the merits outweighs the competing policy favoring judicial efficiency. (Cf. *Cordova v. Vons Grocery Co.* (1987) 196 Cal.App.3d 1526, 1532-1533 [242 Cal.Rptr. 605] [when evaluating dismissal of action for delay in prosecution, policy favoring expeditious administration of justice by compelling prompt and diligent prosecution of actions subordinate to policy favoring trial on merits].) Here, there are two ways to read plaintiff's delay: either sensible case management or mere do-nothingness. As a matter of common law preference for resolution on the merits, the conflict should be resolved in plaintiff's favor."); *Vosburg v. Putney* (Wisc. 1891) 80 Wis. 523 ("Had the the parties been upon the play-grounds of the school, engaged in the usual boyish sports, the defendant being free from malice, wantonness, or negligence, and intending no harm to plaintiff in what he did, we should hesitate to hold the act of the defendant unlawful, or that he could be held liable in this action. Some consideration is due to the implied license of the play-grounds. But it appears that the injury was inflicted in the school, after it had been called to order by the teacher, and after the regular exercises of the school had commenced. Under these circumstances, no implied license to do the act complained of existed, and such act was a violation of the order and decorum of the school, and necessarily unlawful. Hence we are of the opinion that, under the evidence and verdict, the action may be sustained."); וְרָא אֱלֹהִים, אֶת הַשָּׁמַיִם, וְאֶת הָאָרֶץ. ("In the beginning, אֱלֹהִים created the heavens and earth."). Holy Bible, Genesis 1:1.

³ "Basic to the constitutional structure established by the Framers was their recognition that '[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.' The Federalist No. 47, p. 300 (H. Lodge ed. 1888) (J. Madison). To ensure against such tyranny, the Framers provided that the Federal Government would consist of three distinct Branches, each to exercise one of the governmental

57. Plaintiff Gavin's files Plaintiff Gavin's Amended Complaint in accordance with the California Rules of Civil Procedure. The Court therefore has jurisdiction to enter an order and judgment. *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 57⁴ (1982).

GENERAL ALLEGATIONS

58. On or about March 1, 2010, the day Plaintiff Gavin moved into Plaintiff Gavin's Home, a flame from the stove owned by Defendants in the Home burst from the stove and burned Plaintiff Gavin for which Plaintiff Gavin remains under doctor's care ("Stove Injury").

59. No one in Plaintiff Gavin's family has violated any of the rules during the Lease indicated in Ch. 15: Termination of Assistance and HAP Contracts ("Rules") that would justify eviction for violating those Rules. See Exhibit A, Exhibit 8 thereto.

60. Defendants however violated the Public Housing Administration ("PHA") rule, "The owner must give PHA a copy of the eviction notice to the tenant." ("Rule") by failing to provide the copy.

61. Defendants had accepted HUD's money for Plaintiff Gavin's rent as of June 2012.

powers recognized by the Framers as inherently distinct." *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 57 (1982).

⁴ "Basic to the constitutional structure established by the Framers was their recognition that '[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.' The Federalist No. 47, p. 300 (H. Lodge ed. 1888) (J. Madison). To ensure against such tyranny, the Framers provided that the Federal Government would consist of three distinct Branches, each to exercise one of the governmental powers recognized by the Framers as inherently distinct." *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 57 (1982).

1 62. Plaintiff Gavin's medical condition compelled Plaintiff Gavin to request from
2 Defendants during the term of the Lease the designation of a parking space near Plaintiff Gavin's
3 Home to provide Plaintiff Gavin meaningful access to Plaintiff Gavin's Home and to
4 accommodate Plaintiff Gavin's handicaps that Defendants refused to designate ("Parking Space
5 Request").
6

7 63. On August 18, 2011, Kathleen McEvoy at the SF MTA wrote a letter dated
8 August 18, 2011 to Plaintiff Gavin responding to Plaintiff Gavin's request to establish a blue
9 zone near Plaintiff Gavin's Home ("August 18, 2011 SF MTA Letter"). See Exhibit A, Exhibit
10 6, August 18, 2011 SF MTA Letter, attached thereto ("Exhibit 6").
11

12 64. On August 23, 2011, a first hearing ("August 23, 2011 Hearing") in the Sunshine
13 case 11048 occurred against the Board of Supervisors.
14

15 65. Bert D. Polacci, Pacifica, CA a.k.a. Bernard D. Polacci ("Mr. Polacci"), a
16 management employee with Defendants was present at the Hearing and several witnesses saw
17 Mr. Polacci.
18

19 66. The City and County of San Francisco Sunshine Ordinance Task Force
20 ("Sunshine Task Force") issued a decision at the Hearing stating Plaintiff Gavin satisfied the
21 local remedy that permitted Plaintiff Gavin to file a claim in court regarding the violations
22 Plaintiff Gavin found ("Decision").
23

24 67. Mr. Polacci then left the August 23, 2011 Hearing in a hurry.
25

26 68. On August 24, 2011, Plaintiff Gavin received from Defendants a, in Plaintiff
27 Gavin's opinion, fraudulently issued unsigned three day notice to perform covenant or quit dated
28 August 24, 2011 that claims Plaintiff Gavin owes Defendants \$1,586,72 in billed utility charges
("August 24, 2011 Notice").

1 69. Plaintiff Gavin asserts on information and belief that Defendants issued and
2 posted the August 24, 2011 Notice in retaliation since Plaintiff Gavin had been residing at
3 Plaintiff Gavin's Home for 17 months and is a disabled person who asserts her rights.
4

5 70. Plaintiff Gavin asserts on information and belief that Defendants targeted Plaintiff
6 Gavin for retaliation by issuing and posting the August 24, 2011 Notice.

7 71. On September 1, 2011, Plaintiff Gavin paid rent for her Home with an installment
8 of \$50 that Defendants accepted ("September 1, 2011 Rent Payment").
9

10 72. The September 1, 2011 Rent Payment in Plaintiff Gavin's rent account ledger.

11 73. On September 3, 2011, Plaintiff Gavin received an Order of Determination from
12 the Sunshine Task Force for hearing part 1 of 2 regarding Supervisor Eric Mar.

13 74. On September 19, 2011, Plaintiff Gavin received from Defendants, in Plaintiff
14 Gavin's opinion, a fraudulently issued three day notice to perform covenant or quit dated
15 September 19, 2011 signed by David P. Wasserman, Esq. ("Mr. Wasserman"), alleged attorney
16 and agent for the landlord Defendants claiming a lesser amount of billed utility charges in the
17 amount of \$1121.92 ("September 19, 2011 Notice"). See Exhibit 6.
18

19 75. On September 21, 2011, Defendants generated an AUM Statement relating to
20 Plaintiff Gavin's Home indicating an AUM Admin Charge of \$2.75 ("September 21, 2011 AUM
21 Admin Charge"). See Exhibit N, September 21, 2011 AUM Admin Charge, attached hereto.
22

23 76. On September 27, 2011, Sunshine hearing case 11048 part 2 of 2 occurred
24 regarding Supervisors David Chiu, Malia Cohen and Scott Wiener.

25 77. On October 3, 2011, Plaintiff Gavin paid rent for her Home with an installment
26 payment of \$50. See Exhibit 6, page 4; and Exhibit G, October 3, 2011 letter from Plaintiff
27 Gavin to Mr. Wasserman re: Utility Account # 1019802352, attached hereto.
28

1 78. On October 17, 2011, the SF Examiner printed an article about the large number
2 of three day notices issued at Parkmerced where Plaintiff Gavin's Home is located. See Exhibit
3 A, Exhibit 4 thereto, SF Examiner October 17, 2011 article.

4
5 79. On October 19, 2011, Defendants returned Plaintiff Gavin's \$50 rent payment
6 ("Returned Payment"). See Exhibit 6, pp. 4-5; and Exhibit H, October 6, 2011 letter from
7 Defendants to Plaintiff Gavin regarding inability to accept checks due to Plaintiff Gavin's
8 "current legal status."

9
10 80. Plaintiff Gavin thereafter requested that Defendants use the Returned Payment to
11 pay utility fees as an installment payment that Defendants denied. See Exhibit 6, pp. 4-5.

12 81. On November 1, 2011, Plaintiff Gavin received an Order of Determination from
13 the Sunshine Task Force for the hearing part 2 of 2. See Exhibit A, Exhibit 3 thereto, Sunshine
14 Task Force Order of Determination for hearing part 2 of 2.

15
16 82. On December 6, 2011, Defendants in the course of performing a second
17 inspection in Plaintiff Gavin's Home that is done annually told the San Francisco Housing
18 Authority ("SFHA") inspector that Defendants would not pay for grab bars on Plaintiff Gavin's
19 bathtub or shower; this information is in Plaintiff Gavin's file with SFHA.

20
21 83. On January 27, 2012, the U.S. Department of Housing and Urban Development
22 ("HUD") wrote a letter dated January 27, 2012 stating Defendants use "a R.U.B.S. system to
23 charge their tenants for water and garbage" and, "At one time there were multiple evictions
24 pending at Parkmerced for non-payment of utilities, but those cases have been resolved by
25 Parkmerced." ("January 27, 2012 HUD Letter"). See Exhibit P, January 27, 2012 HUD Letter,
26 attached hereto.
27
28

1 84. On April 17, 2012, the Sunshine Task Force published an Order of Determination
2 in Anonymous v. John Rahaim, et al., Planning (Case No. 11068) ("April 17, 2012 Sunshine
3 Order"). See Exhibit I, April 17, 2012 Sunshine Order, attached hereto.
4

5 85. On April 17, 2012, Plaintiff Gavin filled out Sunshine Ordinance Complaints to
6 the attention of the Sunshine Task Force listing contacts at the Department or Commission as
7 Matt Lasky, Jessica Manzi, SF MTA Board of Directors and Michael Yarne regarding violations
8 that allegedly occurred at a March 28, 2011 public meeting ("April 17, 2012 Sunshine
9 Complaints"). See Exhibit E, April 17, 2012 Sunshine Complaints, attached hereto.
10

11 86. On April 18, 2012, Plaintiff Gavin filled out a Sunshine Ordinance Complaint to
12 the attention of the Sunshine Task Force against the San Francisco City Attorney listing the
13 contact at the Department or Commission as Dennis Herrera regarding violations that allegedly
14 occurred at a May 24, 2011 public meeting ("April 18, 2012 Sunshine Complaint"). See Exhibit
15 F, April 18, 2012 Sunshine Complaint, attached hereto.
16

17 87. On May 11, 2012, Defendants is served with a complaint for the Stove Injury.
18 See Exhibit Q, May 14, 2011 e-mail regarding personal service on Defendants of Summons and
19 Complaint completed on May 11, 2012 at 2:15 p.m., attached hereto.
20

21 88. On May 15, 2012, Plaintiff Gavin faxed a letter to HUD Secretary Donovan.
22

23 89. On May 18, 2012, the Sunshine Ordinance Task Force published a Notice of
24 Finding of Violation if Sunshine Ordinance Section 67.21(e) for Failure to Appear at Hearing re
25 Sunshine Complaints by San Francisco Deputy City Attorneys Charles Russell Sullivan, Glen
26 Ellen, CA, and Cheryl Susana Adams, San Francisco, CA a.k.a. Cheryl S. Edmonds a.k.a. Cheryl
27 S. McNichols addressed to San Francisco City Attorney Dennis Jose Herrera, San Francisco, CA
28

1 (“May 18, 2012 Sunshine Letter”). See Exhibit J, May 18, 2012 Sunshine Letter, attached
2 hereto.

3 90. On May 22, 2012, Plaintiff Gavin received a letter from HUD Regional
4 Administrator that referenced a letter Plaintiff Gavin faxed to HUD Secretary Donovan on May
5 15, 2012; Plaintiff Gavin contacted HUD and learned the complaint is assigned to Ms. Farsai for
6 an investigation. See Exhibit A, Exhibit 2, May 22, 2012 HUD Regional Administrator letter.

7 91. On or about May 23, 2012, Plaintiff Gavin obtained from Stellar Management a
8 Resident Ledger dated May 23, 2012 for Plaintiff Gavin’s Home (“May 23, 2012 Resident
9 Ledger”). See Exhibit O, May 23, 2012 Resident Ledger, attached hereto.

10 92. On July 2, 2012, Plaintiff Gavin’s counsel could not represent Plaintiff Gavin at
11 trial in Plaintiff Gavin’s San Francisco Superior Court (“SFSC”) unlawful detainer case (“Case”)
12 due to a conflict of interest so Plaintiff Gavin, unfamiliar with the rules of court, attended court
13 arbitration at SFSC on July 2, 2012 without counsel (“Arbitration”).

14 93. The Arbitration lasted two hours.

15 94. The arbitrator at Arbitration told Plaintiff Gavin that the Case would be heard the
16 next day on July 3, 2012.

17 95. No one ever told Plaintiff Gavin that the Case would proceed to trial later the
18 morning of July 2, 2012.

19 96. Plaintiff Gavin experienced heart palpitations and continues to have them due to
20 extreme stress of the Arbitration Case and wrongful eviction from her home.

21 97. On July 2, 2012, the SFSC entered a default judgment in Plaintiff Gavin’s Case.

22 98. On July 4, 2012, the SFSC was closed due to the holiday.

1 99. On July 5, 2012, the SFSC's Access self-help center ("Access") provided Plaintiff
2 Gavin with paperwork for an ex parte application and motion to vacate judgment and to return to
3 Access if Plaintiff Gavin had any questions.

4 100. On July 6, 2012, SFSC's Access was closed and Plaintiff Gavin did not know
5 where to go to obtain any assistance.

6 101. On July 9, 2012, Plaintiff Gavin attempted to submit at SFSC an ex parte
7 application but the SFSC clerk instructed Plaintiff Gavin that the documents were incorrect.

8 102. On July 10, 2012, Plaintiff Gavin filed at SFSC an ex parte application to be
9 heard on Thursday, July 12, 2012.

10 103. On July 10, 2012, Plaintiff Gavin received verification from the San Francisco
11 Human Rights Commission ("SFHRC") that Plaintiff Gavin has an open complaint against
12 Defendants. See Exhibit A, Exhibit 1 thereto, July 10, 2012 letter from SFHRC to Plaintiff
13 Gavin.

14 104. On or about July 11, 2012, Plaintiff Gavin received a letter dated July 11, 2012
15 from the Volunteer Legal Services Program ("VLSP") regarding an opinion that Defendants,
16 among other things, overcharged Plaintiff Gavin on Plaintiff Gavin's utility bills by calculating
17 Plaintiff Gavin's utility bills incorrectly ("July 11, 2012 VLSP Letter"). See Exhibit K, July 11,
18 2012 VLSP Letter, attached hereto.

19 105. On July 12, 2012, a neighbor drove Plaintiff Gavin to SFSC but the stress of
20 everything caused Plaintiff Gavin to leave the court papers at home and SFSC Hon. Ronald E.
21 Quidachay, Sacramento, CA ("Judge Quidachay") told Plaintiff Gavin to return the next day,
22 Friday, July 13, 2012.

1 106. On July 13, 2012, Plaintiff Gavin asked at SFSC for a clerk supervisor and Ms.
2 Gonzalez approached Plaintiff Gavin at the SFSC window; Plaintiff Gavin was running late and
3 asked Ms. Gonzalez for “reasonable accommodation” and assistance; Ms. Gonzalez stated to
4 Plaintiff Gavin that the proper request had to be a 5 day notice in advance; Plaintiff Gavin
5 explained to Ms. Gonzalez that Plaintiff Gavin was trying to get to SFSC Department 501; Ms.
6 Gonzalez then called SFSC Department 501; Plaintiff Gavin went to SFSC Department 501 on
7 the fifth floor of SFSC but Judge Quidachay told Plaintiff Gavin to get out of SFSC Department
8 501 and return the following Monday, July 16, 2012; Plaintiff Gavin went back downstairs and
9 requested to speak with Ms. Gonzalez’s supervisor and then Ms. Davis approached Plaintiff
10 Hambolu; Plaintiff Gavin explained to Ms. Davis what transpired and Ms. Davis called SFSC
11 Department 501; Ms. Davis stated to Plaintiff Gavin that SFSC Department 501 had finished
12 with the ex parte orders for the day; at that time, the hour was already noon and Plaintiff Gavin
13 did not have enough time to give a 25 hour notice for an ex parte application to be heard on
14 Monday, July 16, 2012 (“Wrongful Delay”).
15

16
17
18 107. On July 16, 2012, SFSC clerks were on strike so Plaintiff Gavin left Plaintiff
19 Gavin’s ex parte application in the box in SFSC available for claims.
20

21 108. On July 17, 2012, Judge Quidachay stated to Plaintiff Gavin that Judge
22 Quidachay would not set aside the default judgment in Plaintiff Gavin’s Case nor would he grant
23 a new trial but that he would only give Plaintiff Gavin one stay that would expire on July 25,
24 2012 (“Wrongful Ruling”).
25

26 109. Judge Quidachay’s Wrongful Ruling violates Plaintiff Gavin’s right to a jury trial.
27 Pernell v. Southall Realty, 416 U.S. 363, 383 (1978).
28

1 110. On July 18, 2012, Plaintiff Gavin wrote a letter to Brandon Riley, ADA
2 coordinator of the SFSC explaining what happened on July 13, 2012 regarding receiving no
3 assistance for “reasonable accommodation” at the SFSC that Plaintiff Gavin requested (“July 18,
4 2012 SFSC Letter”).

5
6 111. On July 19, 2012, Plaintiff Gavin visited federal court to inquire about filing a
7 claim.

8 112. On July 23, 2012, Plaintiff Gavin filed the Complaint against Defendants, and
9 Does. See Exhibit A.

10
11 113. On July 25, 2012, the San Francisco Sheriff wrongfully evicted Plaintiff Gavin
12 from Plaintiff Gavin’s Home.

13 114. On July 25, 2012, Plaintiff Gavin collapsed twice, was hospitalized and required
14 heart monitoring.

15
16 115. Subsequent to the Wrongful Eviction, Defendants removed from Plaintiff Gavin’s
17 Home Plaintiff Gavin’s Property based on Plaintiff Gavin’s information and belief.

18 116. Defendants did not provide Plaintiff Gavin with any message or to Plaintiff
19 Gavin’s e-mail that Plaintiff Gavin provided in the Lease regarding taking possession of Plaintiff
20 Gavin’s Property. See Exhibit B, page 19.

21
22 1187. On July 26, 2012, Plaintiff Gavin e-mailed after a phone conversation Mr. Seth J.
23 Mallen, Napa, CA (“Mr. Mallen”) to request reasonable accommodation to get Plaintiff Gavin’s
24 things from Plaintiff Gavin’s Home to which Mr. Mallen directed Plaintiff Gavin to Defendants’
25 agent and attorney Mr. Wasserman (“July 26, 2012 E-mail”). See Exhibit M, July 26, 2012 E-
26 mail, attached hereto.
27
28

119. Plaintiff Gavin is legally entitled to impartial⁵ treatment from every source free from discrimination due to Plaintiff Gavin's handicaps or any other reason according to the law that has not occurred according to the facts of this case.

120. From March 1, 2011 to the present and continuing, Defendants fraudulently discriminated against Plaintiff Gavin based on her handicaps ("Wrongful Discrimination"); the Wrongful Three Day Notices; the Wrongful Eviction; and the seizure of Plaintiff Gavin's Property ("Wrongful Seizure"). See Exhibits A-Q; Cal. Civ. Code §§ 1709, 2223,⁶ 2224⁷; PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App. 4th 384, 398⁸; Campbell v. Superior Court (2005) 132 Cal.App.4th 904, 920.⁹

121. Due to the Wrongful Seizure, Defendants fraudulently continue to detain wrongfully Plaintiff Gavin's Property ("Wrongful Detention"). Cal. Civ. Code §§ 1709, 2224;

⁵ Black's Law Dictionary defines impartial as "adj. (16c) Unbiased; disinterested." Black's Law Dictionary (2009) 9th edition, Bryan A. Garner editor-in-chief. "These things also belong to the wise: it is not good to show partiality in judgment." Proverb 24:23.

⁶ Cal. Civ. Code "§ 2223. Involuntary trustee One who wrongfully detains a thing is an involuntary trustee thereof, for the benefit of the owner."

⁷ Cal. Civ. Code "§ 2224. Wrongful act One who gains a thing by fraud, accident, mistake, undue influence, the violation of a trust, or other wrongful act, is, unless he or she has some other better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who would otherwise have had it."

⁸ "Before a constructive trust can be imposed, the plaintiff must prove that the defendant's acquisition of the property was *wrongful*. (*Ibid.* [' a constructive trust may only be imposed where the following three conditions are satisfied: (1) the existence of a res (property or some interest in property); (2) the right of a complaining party to the res; and (3) some *wrongful* acquisition or detention of the res by another party who is not entitled to it'], quoting *Communist Party v. 522 Valencia, Inc., supra*, 35 Cal.App.4th at p. 990].)" PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App. 4th 384, 398.

⁹ " 'A constructive trust is an involuntary equitable trust created by operation of law as a remedy to compel the transfer of property from the person wrongfully holding it to the rightful owner. [Citations.] The essence of the theory of constructive trust is to prevent unjust enrichment and to prevent a person from taking advantage of his or her own wrongdoing. [Citation.]" Campbell v. Superior Court (2005) 132 Cal.App.4th 904, 920.

1 Warren v. Merrill (2006) 143 Cal.App.4th 96, 112-113¹⁰; Roberts v. Salot (1958) 166 Cal.App.2d
 2 294, 299¹¹; Padilla v. Yoo, D.J.D.A.R. 5724, 5731¹² (9th Cir. 2012); In re Tobacco II Cases

3
 4
 5 ¹⁰ “What Merrill’s arguments overlook are the following principles of law: Once fraud by a
 6 fiduciary is shown by the evidence (1) a written contract for a real property transaction is not
 7 required; (2) the absence of a written contract does not violate the statute of frauds; (3) the
 8 defrauded person may be found to hold superior title to that held by the defrauder; and (4) a wide
 9 variety of equitable remedies are available and appropriate to remedy the fiduciary’s fraud.
 10 Many of these principles were explained by the Supreme Court in *Mazzera v. Wolf*.¹⁵ ‘A
 11 constructive trust may be imposed when a party has acquired property to which he is not justly
 12 entitled, if it was obtained by actual fraud, mistake or the like, or by constructive fraud through
 13 violation of some fiduciary or confidential relationship. [Citations.] Such a trust, imposed upon
 14 a partner, agent, or other fiduciary, arises by operation of law, and, accordingly, the statute of
 15 frauds is no bar. [Citations.] But the mere failure to perform an oral promise to convey real
 16 property is not itself fraud, and the agreement will be held unenforceable under the statute of
 17 frauds in the absence of actual or constructive fraud. [Citations.]’¹⁶” Warren v. Merrill (2006)
 18 143 Cal.App.4th 96, 112-113.

19 ¹¹ “Having breached the promise which formed the only consideration for assignment of the
 20 second trust deed to him, and having paid no money for it, defendant had only nominal title
 21 thereto. However, he represented to Title Insurance and Trust Company that he was the owner
 22 of that second lien and entitled to receive the surplus. . . . Clearly a constructive trust arose in
 23 favor of plaintiff pursuant to section 2224, Civil Code,” Roberts v. Salot (1958) 166
 24 Cal.App.2d 294, 299.

25 ¹² “The absence of a decision defining the constitutional and statutory rights of citizens detained
 26 as enemy combatants need not be fatal to the plaintiffs’ claims. The Supreme Court has long
 27 held that ‘officials can still be on notice that their conduct violates established law even in novel
 28 factual circumstances.’ *Hope v. Pelzer*, 536 U.S. 730, 741 (2002); see also *United States v.*
Lanier, 520 U.S. 259, 271 (1997) (“There has never been . . . a section 1983 case accusing
 welfare officials of selling foster children into slavery; it does not follow that if such a case
 arose, the officials would be immune from damages [or criminal] liability.’ (alteration in
 original) (quoting *United Staes v. Lanier*, 73 F.3d 1380, 1410 (6th Cir. 1996) (Daughtrey, J.,
 dissenting)) (internal quotation marks omitted). The plaintiffs invoke this principle here. They
 argue that, even if there is no specific judicial decision holding that the Fifth Amendment’s
 prohibition on government conduct that ‘shocks the conscience’ is violated when the government
 tortures a United States citizen designated as an enemy combatant, torture of a United States
 citizen is the kind of egregious constitutional violation for which a decision ‘directly on point’ s
 not required. *Al-Kidd*, 131 S.Ct. at 2083.⁹ We agree with the plaintiffs that the
 unconstitutionality of torturing a United States citizen was ‘beyond debate’ by 2001. *Id.*¹⁰ Yoo
 is entitled to qualified immunity, however, because it was not clearly established in 2001-03 that
 the treatment to which Padilla says he was subjected amounted to torture.” Padilla v. Yoo,
 D.J.D.A.R. 5724, 573 (9th Cir. 2012); Black’s Law dictionary defines torture as, “n. (16c) The
 infliction of intense pain to the body or mind to punish, to extract a confession or information, or
 to obtain sadistic pleasure.” Black’s Law Dictionary (2009) 9th ed., Bryan A. Garner editor-in-
 chief.

(2009) 46 Cal.4th 298, 312¹³; In re Guantanamo Bay Detainee Litigation, 581 F.Supp.2d 33, 42¹⁴ (D.D.C. 2008); In re Xe Services Alien Tort Litigation, 665 F.Supp.2d 569, 589¹⁵ (E.D.Va. 2009); In re Asbestos Litigation, 134 F.3d 668, 680¹⁶ (5th Cir. 1998); In re Agent Orange Product Liability Litigation, 996 F.2d 1425, 1432¹⁷ (2nd Cir. 1993).

¹³ “The fraudulent business practice prong of the UCL has been understood to be distinct from common law fraud. ‘A [common law] fraudulent deception must be actually false, known to be false by the perpetrator and reasonably relied upon by a victim who incurs damages. None of these elements are required to state a claim for injunctive relief’ under the UCL. (*Day v. A T & T Corp.* (1998) 63 Cal.App.4th 325, 332 [74 Cal.Rptr.2d 55]; see *State Farm Fire & Casualty Co. v. Superior Court* (1996) 45 Cal.App.4th 1093, 1105 [53 Cal.Rptr.2d 229].) This distinction reflects the UCL’s focus on the defendant’s conduct, rather than the plaintiff’s damages, in service of the statute’s larger purpose of protecting the general public against unscrupulous business practices. (*Fletcher v. Security Pacific National Bank* (1979) 23 Cal.3d 442, 453 [153 Cal.Rptr. 28, 591 P.2d 51].)” In re Tobacco II Cases (2009) 46 Cal.4th 298, 312.

¹⁴ “These qualifications are important—indeed essential—to preserving habeas corpus, ‘an indispensable mechanism for monitoring the separation of powers.’ *Boumediene*, 128 S.Ct. at 2259. The judicial authority to issue a writ of habeas corpus is derived from the guiding principle that ‘personal liberty [] is secured by adherence to separation of powers.’⁵ *Id.* at 2277. And the court’s authority to safeguard an individual’s liberty from unbridled executive fiat reaches its zenith when the Executive brings an individual involuntarily within the court’s jurisdiction, detains that individual and then subverts diplomatic efforts to secure alternative channels for release. See *St. Cyr*, 533 U.S. at 301, 121 S.Ct. 2271 (stating that the protections afforded by habeas review are at their strongest in reviewing the legality of executive detention). Liberty finds its liberator in the great writ, and the great writ, in turn finds protection under the Constitution. *Wingo v. Wedding*, 418 U.S. 461, 468, 94 S.Ct. 2842, 41 L.Ed.2d 879 (1974) (recognizing that ‘the great constitutional privilege’ of habeas corpus has historically provided a prompt and efficacious remedy for whatever society deems to be intolerable restraints’ (internal citation omitted)).” In re Guantanamo Bay Detainee Litigation, 581 F.Supp.2d 33, 42 (D.D.C. 2008).

¹⁵ “The Supreme Court recently declared that threshold dismissal for failure to state a valid claim must be granted unless the complaint ‘contain[s] sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’ *Ashcroft v. Iqbal*, — U.S. —, 129 S.Ct. 1937, 1949, 173 L.Ed.2d 868 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)).” In re Xe Services Alien Tort Litigation, 665 F.Supp.2d 569, 589.

¹⁶ “The *Amchem* class was rejected also, in part, because common questions of law or fact did not predominate over questions affecting only individual class members. See *id.* at —, 117 S.Ct. at 2249 (citing rule 23(b)(3)).” In re Asbestos Litigation, 134 F.3d 667, 680 (5th Cir. 1998).

¹⁷ “Appellants contend that *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669 (1971), and its progeny, particularly *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 107 S.Ct. 1519, 95 L.Ed.2d 1 (1987), require that the district court abstain from exercising jurisdiction in deference

122. Defendants and SFSC fraudulently denied and continue to deny Plaintiff Gavin honest services that Plaintiff Gavin had and continues to have an expectation of receiving from Defendants and the SFSC but instead received and continues to receive from Defendants and the SFSC dishonest services including the Wrongful Discrimination, Wrongful Three Day Notices, Wrongful Delay, Wrongful Ruling, Wrongful Eviction, Wrongful Seizure and Wrongful Detention (“Wrongful Conduct”). United States Constitution; California Constitution; Cal. Civ. Code § 1709; The MEGA Life & Health Ins. Co. v. Superior Court (2009) 172 Cal.App.4th 1522, 1530; 18 U.S.C. §§ 1341, 1343, 1346; United States v. Milanovic, D.J.D.A.R. 5162, 5164¹⁸ (9th Cir. 2012); Skilling v. United States, 561 U.S. ____¹⁹ (2010); U.S. v. Williams, 441 F.3d 716, 720, 721-722, 723, 724²⁰ (2006).

to the Texas state courts. This argument stands the *Younger* doctrine on its head. *Younger* teaches us to recognize the interest of the states in protecting the authority of their judicial system so that their orders and judgments are not rendered nugatory. *Pennzoil*, *supra*, 481 U.S. at 14 n. 12, 107 S.Ct. at 1527 n. 12 (quoting *Juidice v. Vail*, 430 U.S. 327, 336 n. 12, 97 S.Ct. 1211, 1218 n. 12, 51 L.Ed.2d 376 (1977)). The application of *Younger*, as advocated by appellants, would threaten the authority of the federal judicial system and potentially nullify the federal courts’ orders and judgments. This result is not the sort of federal-state comity envisioned in *Younger* and *Pennzoil*. See *Town of Lockport v. Citizens for Community Action at the Local Level, Inc.*, 430 U.S. 259, 264 n. 8, 97 S.Ct. 1047, 1051 n. 8, 51 L.Ed.2d 313 (1977).” In re Agent Orange Product Liability Litigation, 996 F.2d 1425, 1432 (2nd Cir. 1993).

¹⁸ “We believe that breach of fiduciary duty is required for honest services fraud, that it does not require a formal fiduciary duty, and that a trust relationship, as existed here, is sufficient.” *United States v. Milanovic*, D.J.D.A.R. 5162, 5164.

¹⁹ “Arguing against any limiting construction, Skilling contends that it is impossible to identify a salvageable honest-services core; ‘the pre-McNally caselaw,’ he asserts, “is a hodgepodge of oft-conflicting holdings’ that are ‘hopelessly unclear.’ Brief for Petitioner 39 (some capitalization and italics omitted). We have rejected an argument of the same tenor before.” *Skilling v. United States*, 561 U.S. ____; *Civil Service Comm’n v. Letter Carriers*, 413 U.S. 548 (1973).

²⁰ “Section 1346 thus codifies an ‘intangible rights’ theory of fraud. Under this theory, the object of the fraudulent scheme is the victim’s intangible right to receive honest services. . . . Defendant argues that § 1346 is exclusively a ‘public corruption’ statute that cannot be used to prosecute private individuals for acts of fraud. We disagree. . . . We follow our sister circuits and hold that the ‘intangible rights’ theory of fraud, as codified by § 1346, can apply to private individuals as well as to public figures. . . . Because Defendant was a fiduciary, we have no occasion to decide whether the ‘intangible right of honest services’ in § 1346 applies to persons who are not fiduciaries.” *U.S. v. Williams*, 441 F.3d 716, 720, 721-722, 723, 724 (2006) (citing to *Yates v. United States*, 354 U.S. 298, 312 (1951); *Burks v. United States*, 437 U.S. 1 (1978), *Griffin v. United States*, 502 U.S. 46, 55 (1991); *United States v. Fulbright*, 105 F.3d 443, 451

123. Defendants operate as an ongoing enterprise through a pattern of racketeering conduct involving the mail and wire as set forth above including Wrongful Conduct and have deprived and continue to deprive Plaintiff Gavin of, *inter alia*, Plaintiff Gavin's Constitutional rights to due process, equal protection, to be free from illegal takings and to separation of powers; and the ability to enjoy quietly Plaintiff Gavin's life free from discrimination due to Plaintiff Gavin's handicaps or any other reason in violation of Cal. Pen. Code § 496 and 18 U.S.C. § 1961(1)(B) (section 1341 relating to mail fraud and section 1343 relating to wire fraud) warranting an award of treble and punitive damages according to proof. See Exhibits A-Q; United States Constitution; California Constitution; Cal. Pen. Code § 496; Cal. Civ. Code § 1709; 18 U.S.C. §§ 1341, 1343, 1346, 1961-1968; 42 U.S.C. §§ 1983, 1985; Citizens of Humanity, LLC v. Costco Wholesale Corp. (2009) 171 Cal.App.4th 1, 16-17²¹; Bridge v. Phoenix

(9th Cir. 1997); *United States v. Frega*, 179 F.3d 793, 802 n. 6 (9th Cir. 1999); *United States v. Bohonus*, 628 F.2d 1169, 1171 (9th Cir. 1980); *McNally v. United States*, 493 U.S. 350, 356 (1987); *United States v. Louderman*, 576 F.2d 1383, 1387 (9th Cir. 1978); *United States v. Rybicki*, 354 F.3d 124, 127 (2d Cir. 2003) (en banc); *United States v. Frost*, 125 F.3d 346, 266 (6th Cir. 1997); *United States v. Vinyard*, 266 F.3d 320, 326 (4th Cir. 2001); *United States v. deVegter*, 198 F.3d 1324, 1330 (11th Cir. 1999); *United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961, 973 ((D.C. Cir. 1998)).

²¹ "We first consider the cause of action for sale of stolen property. Penal Code Section 496, subdivision (a) provides criminal penalties for every person who sells property knowing it to be stolen. Subdivision (c) of that statute provides that '[a]ny person who has been injured by a violation of subdivision (a) . . . may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and reasonable attorney's fees.' The trial court concluded that Citizens had failed to state a cause of action for violation of Penal Code section 496 because Citizens had not alleged that it had been the owner of the property when it was stolen. Costco does not attempt to pursue this line of argument on appeal. The trial court was incorrect. Penal Code section 496, subdivision (c) provides a private right of action for '[a]ny person who has been injured' by the sale of stolen property. The plain language of the statute clearly does not restrict the right to bring a civil action to the owner of the stolen property.'" Citizens of Humanity, LLC v. Costco Wholesale Corp. (2009) 171 Cal.App.4th 1, 16-17.

1 Bond & Indemnity Co., 553 U.S. ____²² (2008) Izenberg v. ETS Services, LLC, 589 F.Supp.2d
 2 1193, 1201-1205 (C.D.Cal. 2008); Odom v. Microsoft Corp., 486 F.3d 541, 547²³ (9th Cir. 2007);
 3 Forsyth v. Humana, 114 F.3d 1467, 1481 (9th Cir. 1997); Bonner v. Lewis, 857 F.2d 559, 562-
 4 563 (9th Cir. 1988); Nodleman v. Aero Mexico, 528 F.Supp. 475, 488-494 (C.D.Cal. 1981);
 5 Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 481 (1985); United States v. Turkette, 452 U.S.
 6 576, 582 (1981); Mitchum v. Foster, 407 U.S. 225, 242-243 (1972).

8 FIRST CAUSE OF ACTION
 9 (Declaratory Relief)

10 124. Plaintiff Gavin realleges the above paragraphs as though fully set forth herein.

11 125. On or about March 1, 2010, Plaintiff Gavin suffered the Stove Injury.

12 126. No one in Plaintiff Gavin's family has violated the Rules.

13 127. Defendants violated the PHA Rule.

14 128. Defendants had accepted HUD's money for Plaintiff Gavin's rent as of June
 15 2012.

16 129. Plaintiff Gavin's medical condition compelled Plaintiff Gavin to make the
 17 Parking Space Request to Defendants that Defendants denied.

18 130. On August 18, 2011, Kathleen McEvoy at the SF MTA wrote the August 18,
 19 2011 SF MTA Letter.

20
 21
 22
 23
 24 ²² "The Racketeer Influenced and Corrupt Organizations Act (RICO or Act), 18 U.S.C. §§ 1961-
 25 1968, provides a private right of action for treble damages to '[a]ny person injured in his
 26 business or property by reason of a violation' of the Act's criminal prohibitions. § 1964(c)."

27 *Bridge v. Phoenix Bond & Indemnity Co.*, 553 U.S. ____ (2008).

28 ²³ "We take from these cases the general instruction that we should not read the statutory terms
 of RICO narrowly. Rather, as the Court wrote in *Sedima*, 'RICO is to be read broadly.' 473
 U.S. at 497, 105 S.Ct. 3275. As Congress admonished and as the Court repeated in *Sedima*,
 RICO should be liberally construed to effectuate its remedial purpose.' *Id.* At 408, 105 S.Ct.
 3275; RICO § 904(a)." *Odom v. Microsoft*, 486 F.3d 541, 547 (9th Cir. 2007).

1 131. On August 23, 2011, Plaintiff Gavin and Mr. Polacci attended the August 23,
2 2011 Hearing where the Sunshine Task Force issued the Decision and Mr. Polacci left in a hurry.

3 132. On August 24, 2011, Plaintiff Gavin received the August 24, 2011 Notice that
4 Plaintiff Gavin asserts Defendants issued in retaliation for, among other reasons, the August 23,
5 2011 Hearing.

6 133. Plaintiff Gavin asserts that thereafter Defendants targeted Plaintiff Gavin for
7 retaliation.

8 134. On September 1, 2011, Plaintiff Gavin paid the September 1, 2011 Rent Payment.

9 135. On September 19, 2011, Plaintiff Gavin received the September 19, 2011 Notice.

10 136. On September 21, 2011, Defendants generated the September 21, 2011 AUM
11 Admin Charge.

12 137. On October 3, 2011, Plaintiff Gavin paid rent for her Home with an installment
13 payment of \$50.

14 138. On October 19, 2011, Defendants returned the Returned Payment citing Plaintiff
15 Gavin's "current legal status."

16 139. Plaintiff Gavin thereafter requested that Defendants use the Returned Payment to
17 pay utility fees as an installment payment that Defendants denied.

18 140. On December 6, 2011, Defendants in the course of performing a second
19 inspection that is done annually told the SFHA inspector that Defendants would not pay for grab
20 bars on Plaintiff Gavin's bathtub or shower.

21 141. On January 27, 2012, HUD wrote the January 27, 2012 HUD Letter.

22 142. On May 14, 2012, Defendants is served with a complaint for the Stove Injury.

23 143. On May 15, 2012, Plaintiff Gavin faxed a letter to HUD Secretary Donovan.

1 144. On May 22, 2012, Plaintiff Gavin received the May 22, 2012 HUD Regional
2 Administrator letter.

3 145. On or about May 23, 2012, Plaintiff Gavin obtained the May 23, 2012 Resident
4 Ledger.
5

6 146. On July 2, 2012, Plaintiff Gavin's counsel could not represent Plaintiff Gavin at
7 trial in Plaintiff Gavin's Case so Plaintiff Gavin, unfamiliar with the rules of court, attended the
8 Arbitration without counsel.

9 147. The Arbitration lasted two hours.
10

11 148. The arbitrator at Arbitration told Plaintiff Gavin that the Case would be heard the
12 next day on July 3, 2012.

13 149. No one ever told Plaintiff Gavin that the Case would proceed to trial later the
14 morning of July 2, 2012.

15 150. Plaintiff Gavin experienced heart palpitations due to extreme stress of the
16 Arbitration and Case.
17

18 151. On July 2, 2012, the SFSC entered a default judgment in Plaintiff Gavin's Case.

19 152. On July 4, 2012, the SFSC was closed due to the holiday.
20

21 153. On July 5, 2012, Access provided Plaintiff Gavin with paperwork for an ex parte
22 application and motion to vacate judgment and to return to Access if Plaintiff Gavin had any
23 questions.

24 154. On July 6, 2012, Access was closed and Plaintiff Gavin did not know where to go
25 to obtain any assistance.

26 155. On July 9, 2012, Plaintiff Gavin attempted to submit at SFSC an ex parte
27 application but the SFSC clerk instructed Plaintiff Gavin that the documents were incorrect.
28

1 156. On July 10, 2012, Plaintiff Gavin filed at SFSC an ex parte application to be
2 heard on Thursday, July 12, 2012.

3 157. On July 10, 2012, Plaintiff Gavin received verification from SFHRC that Plaintiff
4 Gavin has an open complaint against Defendants.

5 158. On or about July 11, 2012, Plaintiff Gavin received the July 11, 2012 VLSP
6 Letter

7 159. On July 12, 2012, a neighbor drove Plaintiff Gavin to SFSC and Judge Quidachay
8 told Plaintiff Gavin to return the next day, Friday, July 13, 2012.

9 160. On July 13, 2012, Plaintiff Gavin endured the Wrongful Delay.

10 161. On July 16, 2012, SFSC clerks were on strike so Plaintiff Gavin left Plaintiff
11 Gavin's ex parte application in the box in SFSC available for claims.

12 162. On July 17, 2012, Judge Quidachay stated to Plaintiff Gavin the Wrongful Ruling
13 that violated Plaintiff Gavin's right to a jury trial.

14 163. On July 18, 2012, Plaintiff Gavin wrote the July 18, 2012 SFSC Letter.

15 164. On July 19, 2012, Plaintiff Gavin visited federal court to inquire about filing a
16 claim.

17 165. On July 25, 2012, the San Francisco Sheriff evicted Plaintiff Gavin from Plaintiff
18 Gavin's Home.

19 166. On July 25, 2012, Plaintiff Gavin collapsed twice, was hospitalized and required
20 heart monitoring. On October 28-30, 2012 Plaintiff Gavin was hospitalized for same reason.

21 167. Defendants recently removed from Plaintiff Gavin's Home Plaintiff Hambolu's
22 Property.

1 170. Defendants did not provide Plaintiff Gavin with any message regarding taking
2 possession of Plaintiff Gavin's Property.

3 171. On July 26, 2012, Plaintiff Gavin e-mailed after a phone conversation Mr. Mallen
4 the July 26, 2012 E-mail.

5 172. The amounts and information Defendants claim in the Wrongful Three Day
6 Notices are inconsistent. See Exhibit 6.

7 173. Plaintiff Gavin has therefore not breached the Lease according to the Wrongful
8 Three Day Notices.

9 174. Defendants refused and continue to refuse to accept a partial payment. See
10 Complaint and Verified Complaint.

11 175. An actual controversy therefore exists by Defendants' own behavior.

12 176. Defendants refuse to account for the exact amount Plaintiff Gavin allegedly owes
13 Defendants or for the exact amount Defendants owe Plaintiff Gavin, if any.

14 177. Defendants have fraudulently gained from Plaintiff Gavin's money and property
15 by Defendants' Wrongful Conduct.

16 178. Defendants have fraudulently seized property from Plaintiff Gavin by
17 Defendants' Wrongful Conduct.

18 179. Plaintiff Gavin seeks a judicial determination and declaration of Plaintiff Gavin
19 and Defendants' respective rights and duties that is appropriate at this time to prevent any further
20 harm to Plaintiff Gavin. See Exhibits A-Q.

21 180. The law guarantees Plaintiff Gavin the right of a full and fair hearing concerning
22 any harm Defendants may have caused Plaintiff Gavin. See Exhibits A-Q.

23 181. Plaintiff Gavin has incurred fees and other court costs according to proof.

SECOND CAUSE OF ACTION
(Injunctive Relief)

182. Plaintiff Gavin realleges the above paragraphs as though fully set forth herein.

183. On or about March 1, 2010, Plaintiff Gavin suffered the Stove Injury.

184. No one in Plaintiff Gavin's family has violated the Rules.

185. Defendants violated the PHA Rule.

186. Defendants had accepted HUD's money for Plaintiff Gavin's rent as of June 2012.

187. Plaintiff Gavin's medical condition compelled Plaintiff Gavin to make the Parking Space Request to Defendants that Defendants denied.

188. On August 18, 2011, Kathleen McEvoy at the SF MTA wrote the August 18, 2011 SF MTA Letter.

189. On August 23, 2011, Plaintiff Gavin and Mr. Polacci attended the August 23, 2011 Hearing where the Sunshine Task Force issued the Decision and Mr. Polacci left in a hurry.

190. On August 24, 2011, Plaintiff Gavin received the August 24, 2011 Notice that Plaintiff Gavin asserts Defendants issued in retaliation for, among other reasons, the August 23, 2011 Hearing.

191. Plaintiff Gavin asserts that thereafter Defendants targeted Plaintiff Gavin for retaliation.

192. On September 1, 2011, Plaintiff Gavin paid the September 1, 2011 Rent Payment.

193. On September 19, 2011, Plaintiff Gavin received the September 19, 2011 Notice.

194. On September 21, 2011, Defendants generated the September 21, 2011 AUM Admin Charge.

1 195. On October 3, 2011, Plaintiff Gavin paid rent for her Home with an installment
2 payment of \$50.

3 196. On October 19, 2011, Defendants returned the Returned Payment citing Plaintiff
4 Gavin's "current legal status."

5 197. Plaintiff Gavin thereafter requested that Defendants use the Returned Payment to
6 pay utility fees as an installment payment that Defendants denied.

7 198. On December 6, 2011, Defendants in the course of performing a second
8 inspection that is done annually told the SFHA inspector that Defendants would not pay for grab
9 bars on Plaintiff Gavin's bathtub or shower.
10

11 199. On January 27, 2012, HUD wrote the January 27, 2012 HUD Letter.

12 200. On May 14, 2012, Defendants is served with a complaint for the Stove Injury.

13 201. On May 15, 2012, Plaintiff Gavin faxed a letter to HUD Secretary Donovan.

14 202. On May 22, 2012, Plaintiff Gavin received the May 22, 2012 HUD Regional
15 Administrator letter.
16

17 203. On or about May 23, 2012, Plaintiff Gavin obtained the May 23, 2012 Resident
18 Ledger.
19

20 204. On July 2, 2012, Plaintiff Gavin's counsel could not represent Plaintiff Gavin at
21 trial in Plaintiff Gavin's Case so Plaintiff Gavin, unfamiliar with the rules of court, attended the
22 Arbitration without counsel.

23 205. The Arbitration lasted two hours.

24 206. The arbitrator at Arbitration told Plaintiff Gavin that the Case would be heard the
25 next day on July 3, 2012.
26
27
28

1 207. No one ever told Plaintiff Gavin that the Case would proceed to trial later the
2 morning of July 2, 2012.

3 208. Plaintiff Gavin experienced heart palpitations due to extreme stress of the
4 Arbitration and Case.

5 209. On July 2, 2012, the SFSC entered a default judgment in Plaintiff Gavin's Case.

6 210. On July 4, 2012, the SFSC was closed due to the holiday.

7 211. On July 5, 2012, Access provided Plaintiff Gavin with paperwork for an ex parte
8 application and motion to vacate judgment and to return to Access if Plaintiff Gavin had any
9 questions.
10

11 212. On July 6, 2012, Access was closed and Plaintiff Gavin did not know where to go
12 to obtain any assistance.
13

14 213. On July 9, 2012, Plaintiff Gavin attempted to submit at SFSC an ex parte
15 application but the SFSC clerk instructed Plaintiff Gavin that the documents were incorrect.
16

17 214. On July 10, 2012, Plaintiff Gavin filed at SFSC an ex parte application to be
18 heard on Thursday, July 12, 2012.

19 215. On July 10, 2012, Plaintiff Gavin received verification from SFHRC that Plaintiff
20 Gavin has an open complaint against Defendants.
21

22 216. On or about July 11, 2012, Plaintiff Gavin received the July 11, 2012 VLSP
23 Letter

24 217. On July 12, 2012, a neighbor drove Plaintiff Gavin to SFSC and Judge Quidachay
25 told Plaintiff Gavin to return the next day, Friday, July 13, 2012.

26 218. On July 13, 2012, Plaintiff Gavin endured the Wrongful Delay.
27
28

1 219. On July 16, 2012, SFSC clerks were on strike so Plaintiff Gavin left Plaintiff
2 Gavin's ex parte application in the box in SFSC available for claims.

3 220. On July 17, 2012, Judge Quidachay stated to Plaintiff Gavin the Wrongful Ruling
4 that violated Plaintiff Gavin's right to a jury trial.

5 221. On July 18, 2012, Plaintiff Gavin wrote the July 18, 2012 SFSC Letter.

6 222. On July 19, 2012, Plaintiff Gavin visited federal court to inquire about filing a
7 claim.
8

9 223. On July 23, 2012, Plaintiff Gavin filed the Complaint.
10

11 225. On July 25, 2012, the San Francisco Sheriff evicted Plaintiff Gavin from Plaintiff
12 Gavin's Home.

13 226. On July 25, 2012, Plaintiff Gavin collapsed twice, was hospitalized and required
14 heart monitoring.

15 227. Defendants recently removed from Plaintiff Gavin's Home Plaintiff Gavin's
16 Property.
17

18 228. Defendants did not provide Plaintiff Gavin with any message regarding taking
19 possession of Plaintiff Gavin's Property.

20 229. On July 26, 2012, Plaintiff Gavin e-mailed after a phone conversation Mr. Mallen
21 the July 26, 2012 E-mail.
22

23 230. The amounts and information Defendants claim in the Wrongful Three Day
24 Notices are inconsistent. See Exhibit 6.

25 231. Plaintiff Gavin has therefore not breached the Lease according to the Wrongful
26 Three Day Notices.
27
28

1 232. Defendants refused and continue to refuse to accept a partial payment. See
2 Complaint and Verified Complaint.

3 233. An actual controversy therefore exists by Defendants' own behavior.

4 234. Defendants refuse to account for the exact amount Plaintiff Gavin allegedly owes
5 Defendants or for the exact amount Defendants owe Plaintiff Gavin, if any.
6

7 235. Defendants have fraudulently gained from Plaintiff Gavin's money and property
8 by Defendants' Wrongful Conduct.

9 236. Defendants have fraudulently seized property from Plaintiff Gavin by
10 Defendants' Wrongful Conduct.
11

12 237. Plaintiff Gavin seeks a judicial determination and declaration of Plaintiff Gavin
13 and Defendants' respective rights and duties that is appropriate at this time to prevent any further
14 harm to Plaintiff Gavin. See Exhibits A-Q.

15 238. The law guarantees Plaintiff Gavin the right of a full and fair hearing concerning
16 any harm Defendants may have caused Plaintiff Gavin. See Exhibits A-Q.

17 239. Plaintiff Gavin has no plain, speedy or adequate remedy available other than
18 injunctive relief.
19

20 240. As a result, Plaintiff Gavin seeks injunctive relief to prevent irreparable injury to
21 Plaintiff Gavin and Plaintiff Gavin's Property.
22

23 241. Plaintiff Gavin seeks injunctive relief in the form of restoration of Plaintiff
24 Gavin's Property to Plaintiff Gavin that is in the public interest to avoid enormous injustice to
25 Plaintiff Gavin.
26

27 THIRD CAUSE OF ACTION
 (Fraud)

28 242. Plaintiff Gavin realleges the above paragraphs as though fully set forth herein.

243. Defendants by Defendants' Wrongful Conduct committed fraud against Plaintiff Gavin thereby nullifying the Wrongful Conduct including Plaintiff's Lease and, *a fortiori*, all Wrongful Conduct subsequent to the alleged formation of Plaintiff's Lease as void *ab initio*.²⁴

244. On or about March 1, 2010, Plaintiff Gavin suffered the Stove Injury.

245. No one in Plaintiff Gavin's family has violated the Rules.

246. Defendants violated the PHA Rule.

247. Defendants had accepted HUD's money for Plaintiff Gavin's rent as of June 2012.

248. Plaintiff Gavin's medical condition compelled Plaintiff Gavin to make the Parking Space Request to Defendants that Defendants denied.

249. On August 18, 2011, Kathleen McEvoy at the SF MTA wrote the August 18, 2011 SF MTA Letter.

250. On August 23, 2011, Plaintiff Gavin and Mr. Polacci attended the August 23, 2011 Hearing where the Sunshine Task Force issued the Decision and Mr. Polacci left in a hurry.

²⁴ Cal. Bus. & Prof. Code § 17200; Cal. Civ. Code § 1709; Cal. Evid. Code § 669; Cal. Pen. Code § 496; 15 U.S.C. § 1601; 18 U.S.C. §§ 1961-1968; 42 U.S.C. § 1983; Macias v. Excel Bldg. Services LLC, 767 F.Supp.2d 1002, 1012 (N.D.Cal. 2011); The MEGA Life & Health Ins. Co. v. Superior Court (2009) 172 Cal.App.4th 1522, 1530; Melendrez v. D & I Investment, Inc. (2005) 127 Cal.App.4th 1238, 1256; Little v. Auto Stiegler, Inc. (2003) 29 Cal.4th 1064, 1075 ("Code of Civil Procedure section 1281.2 authorizes the court to refuse arbitration if grounds for revocation exist, not to reform the agreement to make it lawful. Nor do courts have any such power under their inherent limited authority to reform contracts. [Citations.]' (*Armendariz, supra*, 24 Cal.4th at pp. 124-125.)"); 6 Angels, Inc. v. Stuart-Wright Mortgage, Inc. (2001) 85 Cal.App.4th 1279, 1286-1287; Sierra-Bay Fed. Land Bank Assn. v. Superior Court (1991) 227 Cal.App.3d 318, 330-331; Trout v. Taylor (1934) 220 Cal.App. 652, 656 ("In view of these authorities the conclusion is inescapable that the deed in question was not voidable but was void *in toto*, a nullity.' ").

1 260. On August 24, 2011, Plaintiff Hambolu received the August 24, 2011 Notice that
2 Plaintiff Gavin asserts Defendants issued in retaliation for, among other reasons, the August 23,
3 2011 Hearing.

4
5 261. Plaintiff Gavin asserts that thereafter Defendants targeted Plaintiff Gavin for
6 retaliation.

7 262. On September 1, 2011, Plaintiff Gavin paid the September 1, 2011 Rent Payment.

8 263. On September 19, 2011, Plaintiff Gavin received the September 19, 2011 Notice.

9
10 264. On September 21, 2011, Defendants generated the September 21, 2011 AUM
11 Admin Charge.

12 265. On October 3, 2011, Plaintiff Gavin paid rent for her Home with an installment
13 payment of \$50.

14 266. On October 19, 2011, Defendants returned the Returned Payment citing Plaintiff
15 Gavin's "current legal status."

16
17 267. Plaintiff Gavin thereafter requested that Defendants use the Returned Payment to
18 pay utility fees as an installment payment that Defendants denied.

19 268. On December 6, 2011, Defendants in the course of performing a second
20 inspection that is done annually told the SFHA inspector that Defendants would not pay for grab
21 bars on Plaintiff Gavin's bathtub or shower.

22
23 269. On January 27, 2012, HUD wrote the January 27, 2012 HUD Letter.

24 270. On May 14, 2012, Defendants is served with a complaint for the Stove Injury.

25 271. On May 15, 2012, Plaintiff Gavin faxed a letter to HUD Secretary Donovan.

26 272. On May 22, 2012, Plaintiff Gavin received the May 22, 2012 HUD Regional
27 Administrator letter.
28

1 273. On or about May 23, 2012, Plaintiff Gavin obtained the May 23, 2012 Resident
2 Ledger.

3 274. On July 2, 2012, Plaintiff Gavin's counsel could not represent Plaintiff Gavin at
4 trial in Plaintiff Gavin's Case so Plaintiff Gavin, unfamiliar with the rules of court, attended the
5 Arbitration without counsel.
6

7 275. The Arbitration lasted two hours.

8 276. The arbitrator at Arbitration told Plaintiff Gavin that the Case would be heard the
9 next day on July 3, 2012.
10

11 277. No one ever told Plaintiff Gavin that the Case would proceed to trial later the
12 morning of July 2, 2012.

13 278. Plaintiff Gavin experienced heart palpitations due to extreme stress of the
14 Arbitration and Case.
15

16 279. On July 2, 2012, the SFSC entered a default judgment in Plaintiff Gavin's Case.

17 280. On July 4, 2012, the SFSC was closed due to the holiday.

18 281. On July 5, 2012, Access provided Plaintiff Gavin with paperwork for an ex parte
19 application and motion to vacate judgment and to return to Access if Plaintiff Gavin had any
20 questions.
21

22 282. On July 6, 2012, Access was closed and Plaintiff Gavin did not know where to go
23 to obtain any assistance.

24 283. On July 9, 2012, Plaintiff Gavin attempted to submit at SFSC an ex parte
25 application but the SFSC clerk instructed Plaintiff Gavin that the documents were incorrect.
26

27 284. On July 10, 2012, Plaintiff Gavin filed at SFSC an ex parte application to be
28 heard on Thursday, July 12, 2012.

1 285. On July 10, 2012, Plaintiff Gavin received verification from SFHRC that Plaintiff
2 Gavin has an open complaint against Defendants.

3 286. On or about July 11, 2012, Plaintiff Gavin received the July 11, 2012 VLSP
4 Letter.

5 287. On July 12, 2012, a neighbor drove Plaintiff Gavin to SFSC and Judge Quidachay
6 told Plaintiff Gavin to return the next day, Friday, July 13, 2012.

7 288. On July 13, 2012, Plaintiff Gavin endured the Wrongful Delay.

8 289. On July 16, 2012, SFSC clerks were on strike so Plaintiff Gavin left Plaintiff
9 Gavin's ex parte application in the box in SFSC available for claims.

10 290. On July 17, 2012, Judge Quidachay stated to Plaintiff Gavin the Wrongful Ruling
11 that violated Plaintiff Gavin's right to a jury trial.

12 291. On July 18, 2012, Plaintiff Gavin wrote the July 18, 2012 SFSC Letter.

13 292. On July 19, 2012, Plaintiff Gavin visited federal court to inquire about filing a
14 claim.

15 293. On July 23, 2012, Plaintiff Gavin filed the Complaint.

16 294. On July 24, 2012, USDC judge Hon. Phyllis J. Hamilton issued the Order.

17 295. On July 25, 2012, the San Francisco Sheriff evicted Plaintiff Gavin from Plaintiff
18 Gavin's Home.

19 296. On July 25, 2012, Plaintiff Gavin collapsed twice, was hospitalized and required
20 heart monitoring. On October 28-23, 2012 Plaintiff Gavin was hospitalized for the same reason.

21 297. Defendants recently removed from Plaintiff Gavin's Home Plaintiff Hambolu's
22 Property.

1 298. Defendants did not provide Plaintiff Gavin with any message regarding taking
2 possession of Plaintiff Gavin Property.

3 299. On July 26, 2012, Plaintiff Gavin e-mailed after a phone conversation Mr. Mallen
4 the July 26, 2012 E-mail.

5 300. The amounts and information Defendants claim in the Wrongful Three Day
6 Notices are inconsistent. See Exhibit 6.

7 301. Plaintiff Gavin has therefore not breached the Lease according to the Wrongful
8 Three Day Notices.

9 302. Defendants refused and continue to refuse to accept a partial payment. See
10 Complaint and Verified Complaint.

11 301. An actual controversy therefore exists by Defendants' own behavior.

12 302. Defendants refuse to account for the exact amount Plaintiff Gavin allegedly owes
13 Defendants or for the exact amount Defendants owe Plaintiff Gavin, if any.

14 303. Defendants have fraudulently gained from Plaintiff Gavin's money and property
15 by Defendants' Wrongful Conduct.

16 304. Defendants have fraudulently seized property from Plaintiff Gavin by
17 Defendants' Wrongful Conduct.

18 305. Plaintiff Gavin seeks a judicial determination and declaration of Plaintiff Gavin
19 and Defendants' respective rights and duties that is appropriate at this time to prevent any further
20 harm to Plaintiff Gavin. See Exhibits A-Q.

21 306. The law guarantees Plaintiff Gavin the right of a full and fair hearing concerning
22 any harm Defendants may have caused Plaintiff Gavin. See Exhibits A-Q.

307. Defendants by Defendants' Wrongful Conduct misrepresented facts to Plaintiff Gavin with knowledge of the facts' falsity with intent to defraud Plaintiff Gavin upon which Plaintiff Gavin justifiably relied resulting in Plaintiff Gavin incurring damages ("Fraud").

308. Defendants' Fraud was intentional, wanton and willful with the intention on the part of the Defendants of thereby depriving Plaintiff Gavin of property, monies, legal rights or otherwise causing Plaintiff Gavin injury. *Murray v. Laborers Union Local no. 324*, 55 F.3d 1445, 1453 (9th Cir. 1995); *Morgan v. Woessner*, 997 F.2d 1244, 1254-1259 (9th Cir. 1993); *Jet Source Charter, Inc. v. Doherty* (2007) 148 Cal.App.4th 1, 8-9.

309. Defendants' Fraud was despicable and subjected Plaintiff Gavin to a cruel and unjust hardship in conscious disregard of Plaintiff Gavin's rights so as to justify an award of exemplary damages. Cal. Civ. Code § 3294; *Century Surety Co. v. Polisso* (2006) 139 Cal.App.4th 922, 958-959; *Boyle v. Lorimar Productions, Inc.*, 13 F.3d 1357, 1360 (9th Cir. 1994); *Las Palmas Associates v. Las Palmas Center Associates* (1991) 235 Cal.App.3d 1220, 1238-1240.

310. Plaintiff Gavin seeks trebling of Plaintiff Gavin's damages due to Defendants' unfair, deceptive acts, practices and methods of competition that amounted, in Plaintiff Gavin's opinion to racketeering, undue influence, recklessness and sale of stolen goods. Cal. Pen. Code § 496; 18 U.S.C. §§ 1962(a), 1964(c); *Citizens of Humanity, LLC v. Costco Wholesale Corp.* (2009) 171 Cal.App.4th 1, 16-17.

FOURTH CAUSE OF ACTION (Negligence)

311. Plaintiff Gavin realleges the above paragraphs as though fully set forth herein.

312. On or about March 1, 2010, Plaintiff Gavin suffered the Stove Injury.

313. No one in Plaintiff Gavin's family has violated the Rules.

1 314. Defendants violated the PHA Rule.

2 315. Defendants had accepted HUD's money for Plaintiff Gavin's rent as of June
3 2012.

4 316. Plaintiff Gavin's medical condition compelled Plaintiff Gavin to make the
5 Parking Space Request to Defendants that Defendants denied.

6 317. On August 18, 2011, Kathleen McEvoy at the SF MTA wrote the August 18,
7 2011 SF MTA Letter.

8 318. On August 23, 2011, Plaintiff Gavin and Mr. Polacci attended the August 23,
9 2011 Hearing where the Sunshine Task Force issued the Decision and Mr. Polacci left in a hurry.

10 319. On August 24, 2011, Plaintiff Gavin received the August 24, 2011 Notice that
11 Plaintiff Gavin asserts Defendants issued in retaliation for, among other reasons, the August 23,
12 2011 Hearing.

13 320. Plaintiff Gavin asserts that thereafter Defendants targeted Plaintiff Gavin for
14 retaliation.

15 321. On September 1, 2011, Plaintiff Gavin paid the September 1, 2011 Rent Payment.

16 322. On September 19, 2011, Plaintiff Gavin received the September 19, 2011 Notice.

17 323. On September 21, 2011, Defendants generated the September 21, 2011 AUM
18 Admin Charge.

19 324. On October 3, 2011, Plaintiff Gavin paid rent for her Home with an installment
20 payment of \$50.

21 325. On October 19, 2011, Defendants returned the Returned Payment citing Plaintiff
22 Gavin's "current legal status."
23
24
25
26
27
28

1 326. Plaintiff Gavin thereafter requested that Defendants use the Returned Payment to
2 pay utility fees as an installment payment that Defendants denied.

3 327. On December 6, 2011, Defendants in the course of performing a second
4 inspection that is done annually told the SFHA inspector that Defendants would not pay for grab
5 bars on Plaintiff Gavin's bathtub or shower.
6

7 328. On January 27, 2012, HUD wrote the January 27, 2012 HUD Letter.

8 329. On May 14, 2012, Defendants is served with a complaint for the Stove Injury.

9 330. On May 15, 2012, Plaintiff Gavin faxed a letter to HUD Secretary Donovan.
10

11 331. On May 22, 2012, Plaintiff Gavin received the May 22, 2012 HUD Regional
12 Administrator letter.

13 333. On or about May 23, 2012, Plaintiff Gavin obtained the May 23, 2012 Resident
14 Ledger.
15

16 334. On July 2, 2012, Plaintiff Gavin's counsel could not represent Plaintiff Gavin at
17 trial in Plaintiff Gavin's Case so Plaintiff Gavin, unfamiliar with the rules of court, attended the
18 Arbitration without counsel.

19 335. The Arbitration lasted two hours.

20 336. The arbitrator at Arbitration told Plaintiff Gavin that the Case would be heard the
21 next day on July 3, 2012.
22

23 337. No one ever told Plaintiff Gavin that the Case would proceed to trial later the
24 morning of July 2, 2012.

25 338. Plaintiff Gavin experienced heart palpitations due to extreme stress of the
26 Arbitration and Case.
27

28 339. On July 2, 2012, the SFSC entered a default judgment in Plaintiff Gavin's Case.

1 340. On July 4, 2012, the SFSC was closed due to the holiday.

2 341. On July 5, 2012, Access provided Plaintiff Gavin with paperwork for an ex parte
3 application and motion to vacate judgment and to return to Access if Plaintiff Gavin had any
4 questions.
5

6 342. On July 6, 2012, Access was closed and Plaintiff Gavin did not know where to go
7 to obtain any assistance.

8 343. On July 9, 2012, Plaintiff Gavin attempted to submit at SFSC an ex parte
9 application but the SFSC clerk instructed Plaintiff Gavin that the documents were incorrect.
10

11 344. On July 10, 2012, Plaintiff Gavin filed at SFSC an ex parte application to be
12 heard on Thursday, July 12, 2012.

13 345. On July 10, 2012, Plaintiff Gavin received verification from SFHRC that Plaintiff
14 Gavin has an open complaint against Defendants.
15

16 346. On or about July 11, 2012, Plaintiff Gavin received the July 11, 2012 VLSP
17 Letter

18 347. On July 12, 2012, a neighbor drove Plaintiff Gavin to SFSC and Judge Quidachay
19 told Plaintiff Gavin to return the next day, Friday, July 13, 2012.

20 348. On July 13, 2012, Plaintiff Gavin endured the Wrongful Delay.

21 349. On July 16, 2012, SFSC clerks were on strike so Plaintiff Gavin left Plaintiff
22 Gavin's ex parte application in the box in SFSC available for claims.

23 350. On July 17, 2012, Judge Quidachay stated to Plaintiff Gavin the Wrongful Ruling
24 that violated Plaintiff Gavin's right to a jury trial.
25

26 351. On July 18, 2012, Plaintiff Gavin wrote the July 18, 2012 SFSC Letter.
27
28

1 352. On July 19, 2012, Plaintiff Gavin visited federal court to inquire about filing a
2 claim.

3 353. On July 23, 2012, Plaintiff Gavin filed the Complaint.

4 354. On July 25, 2012, the San Francisco Sheriff evicted Plaintiff Gavin from Plaintiff
5 Gavin's Home.
6

7 356. On July 25, 2012, Plaintiff Gavin collapsed twice, was hospitalized and required
8 heart monitoring.
9

10 357. Defendants recently removed from Plaintiff Gavin's Home Plaintiff Gavin's
11 Property.

12 358. Defendants did not provide Plaintiff Gavin with any message regarding taking
13 possession of Plaintiff Gavin Property.

14 359. On July 26, 2012, Plaintiff Gavin e-mailed after a phone conversation Mr. Mallen
15 the July 26, 2012 E-mail.
16

17 360. The amounts and information Defendants claim in the Wrongful Three Day
18 Notices are inconsistent. See Exhibit 6.

19 361. Plaintiff Gavin has therefore not breached the Lease according to the Wrongful
20 Three Day Notices.
21

22 362. Defendants refused and continue to refuse to accept a partial payment. See
23 Complaint and Verified Complaint.

24 363. An actual controversy therefore exists by Defendants' own behavior.

25 364. Defendants refuse to account for the exact amount Plaintiff Gavin allegedly owes
26 Defendants or for the exact amount Defendants owe Plaintiff Gavin, if any.
27
28

1 365. Defendants have fraudulently gained from Plaintiff Gavin's money and property
2 by Defendants' Wrongful Conduct.

3 366. Defendants have fraudulently seized property from Plaintiff Gavin by
4 Defendants' Wrongful Conduct.

5 367. Plaintiff Gavin seeks a judicial determination and declaration of Plaintiff Gavin
6 and Defendants' respective rights and duties that is appropriate at this time to prevent any further
7 harm to Plaintiff Gavin. See Exhibits A-Q.

8 368. The law guarantees Plaintiff Gavin the right of a full and fair hearing concerning
9 any harm Defendants may have caused Plaintiff Gavin. See Exhibits A-Q.

10 369. Defendants had a duty to Plaintiff Gavin not to commit Wrongful Conduct against
11 Plaintiff Gavin that Defendants breached that was the legal and proximate cause of Plaintiff
12 Gavin's damages ("Negligence").

13 370. Plaintiff Gavin seeks trebling of Plaintiff Gavin's damages due to Defendants'
14 unfair, deceptive acts, practices and methods of competition that amounted, in Plaintiff Gavin's
15 opinion to Fraud, Negligence, Breach of Contract, racketeering, undue influence, recklessness
16 and sale of stolen goods. Cal. Pen. Code § 496; 18 U.S.C. §§ 1962(a), 1964(c); Citizens of
17 Humanity, LLC v. Costco Wholesale Corp. (2009) 171 Cal.App.4th 1, 16-17.

18
19
20
21
22 FIFTH CAUSE OF ACTION
23 (Breach of Contract)

24 371. Plaintiff Gavin realleges the above paragraphs as though fully set forth herein.

25 372. On or about March 1, 2010, Plaintiff Gavin suffered the Stove Injury.

26 373. No one in Plaintiff Gavin's family has violated the Rules.

27 374. Defendants violated the PHA Rule.
28

1 375. Defendants had accepted HUD's money for Plaintiff Gavin u's rent as of June
2 2012.

3 376. Plaintiff Gavin's medical condition compelled Plaintiff Gavin to make the
4 Parking Space Request to Defendants that Defendants denied.

5 377. On August 18, 2011, Kathleen McEvoy at the SF MTA wrote the August 18,
6 2011 SF MTA Letter.

7 378. On August 23, 2011, Plaintiff Gavin and Mr. Polacci attended the August 23,
8 2011 Hearing where the Sunshine Task Force issued the Decision and Mr. Polacci left in a hurry.

9 379. On August 24, 2011, Plaintiff Gavin received the August 24, 2011 Notice that
10 Plaintiff Gavin asserts Defendants issued in retaliation for, among other reasons, the August 23,
11 2011 Hearing.

12 380. Plaintiff Gavin asserts that thereafter Defendants targeted Plaintiff Gavin for
13 retaliation.

14 381. On September 1, 2011, Plaintiff Gavin paid the September 1, 2011 Rent Payment.

15 382. On September 19, 2011, Plaintiff Gavin u received the September 19, 2011
16 Notice.

17 383. On September 21, 2011, Defendants generated the September 21, 2011 AUM
18 Admin Charge.

19 384. On October 3, 2011, Plaintiff Gavin paid rent for her Home with an installment
20 payment of \$50.

21 385. On October 19, 2011, Defendants returned the Returned Payment citing Plaintiff
22 Gavin's "current legal status."